IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7109 of 2007()

CRIME NO.166/07 OF IRRIKUR POLICE STATION

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: PETITIONER/3RD ACCUSED

M.P.ABDULLA, S/O.A.P.ASHRAF,
AGED 26 YEARS, RESIDING AT MANGADAN PUTHIYAPURAYIL
PADAYANKODE, PADIYOOR, TALIPARAMBA TALUK,
KANNUR DIST.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

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1. STATE OF KERALA, REP. BY ITS PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE S.H.O., IRIKKUR POLICE STATION,
KANNUR DIST., REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7109 of 2007

Dated this the 28th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner is the third accused in a crime registered alleging offences punishable under Sections 406 and 420 I.P.C. There are three accused persons named in the complaint. The crux of the contention, it would appear, is that the de facto complainant had transferred possession of his vehicle to the first accused. The first accused had transferred possession to the second accused. First and second accused together transferred possession to the third accused. Hire purchase loan was availed in respect of the vehicle by the de facto complainant. Accused 1 to 3, it is alleged, have not been making payments of hire purchase instalments due to the financier. This does allegedly amount to offence of cheating.

2. The learned counsel for the petitioner submits that even if the entire allegations were accepted, nothing worse than a breach of civil liability to pay amounts to the financier has been revealed. In these circumstances, the petitioner may be spared

of the undeserved trauma of arrest and detention, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail and I am, in the circumstances to which I have made brief reference above, satisfied that anticipatory bail can be granted to the petitioner.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 5/12/2007. He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 1 p.m on 06/11/2007 and 07/11/2007 and thereafter on all Mondays between 10 a.m and 12 noon for a period of one month and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 05/11/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 05/11/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007